

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

WILLIAM R. COSME,

Defendant.

No. 13-CR-43 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

The Court is in receipt of Defendant William Cosme's letter dated March 9, 2021. (See dkt. no. 439.) That letter requests that the Court seek temporary jurisdiction from the Court of Appeals to address Mr. Cosme's motion for compassionate release, (id.), which the Court dismissed without prejudice for want of jurisdiction, (see dkt. no. 435). For the reasons below, Mr. Cosme's request is DENIED.

The Federal Rules of Criminal Procedure permit a district court, when confronted with a motion over which it does not have jurisdiction, to, among other things, "state either that it would grant the motion if the court of appeals remand[ed] for that purpose or that the motion raises a substantial issue." FED. R. CRIM. P. 37(a)(3). Whether to issue an indicative ruling is purely a matter of the Court's discretion.

The Court declines Mr. Cosme's invitation to issue such a ruling because the Court would not, based on Mr. Cosme's current submissions, grant his motion for compassionate release. Nor

does the Court believe that the motion "raises a substantial issue," especially when juxtaposed against Mr. Cosme's pending appeal. To the contrary, requesting temporary jurisdiction from the Court of Appeals would serve only to prolong further the resolution of that appeal, which has already been pending for nearly four years and repeatedly delayed by (1) Mr. Cosme's numerous requests for extensions and filing of other motions and (2) the Court of Appeals' need to relieve five separate appellate counsel to Mr. Cosme. (See dkt. no. 435.)

Accordingly, Mr. Cosme's request that the Court seek temporary jurisdiction from the Court of Appeals to address his compassionate release application is DENIED. As the Court has already twice informed Mr. Cosme, he may renew his application if and when the Court re-obtains jurisdiction in the ordinary course. (See dkt. nos. 435, 438.) The Clerk of the Court shall mail a copy of this order to Mr. Cosme.

SO ORDERED.

Dated: March 18, 2021
New York, New York



LORETTA A. PRESKA
Senior United States District Judge